



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

May 29, 2020

BY ECF

The Honorable Edgardo Ramos
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

MEMO ENDORSED, pg. 2.

Re: *United States v. Neil Cole*, 19 Cr. 869 (ER)

Dear Judge Ramos:

In response to the inquiry from Your Honor's chambers, the Government respectfully requests that the conference scheduled for Thursday, June 4 at 11:00 a.m. be adjourned until late August 2020 in light of the ongoing Covid-19 pandemic and the Chief Judge's standing order adjourning all jury trials until further order of the court.

By way of background, trial in this case had been scheduled for May 11, 2020. In light of the pandemic, on March 27, 2020, the Government requested that the Court adjourn trial *sine die* and set a scheduling conference in approximately 60 days in order to assess whether it would be feasible at that point to schedule a definitive trial date. (Docket 38). Later that day, the Chief Judge issued a standing order adjourning all trials until June 1, 2020. On April 1, the Court granted the Government's request, adjourning the trial and all pretrial deadlines *sine die*, and setting a conference for June 4. (Docket 40). On April 20, the Chief Judge issued a standing order adjourning all jury trials until further order of the court. That order remains in effect.

It appears that the purpose of the upcoming conference—to set a definitive trial date—cannot be achieved under present circumstances. Because it remains uncertain when jury trials can resume and this case can be tried, we respectfully submit that it would not be productive to hold a conference on June 4 or set a trial date at that time. Accordingly, we respectfully propose that the Court postpone the conference until a date later this summer when the Court and the parties will likely be in a better position to assess when it is feasible for trial to proceed.

The Government also respectfully requests an opportunity to be heard when the Court ultimately schedules trial, as AUSAs Imperatore and Hartman are scheduled to handle an accounting fraud trial before Judge Rakoff beginning on October 5, 2020, which is expected to last up to six weeks.

MEMO ENDORSED

In light of the ongoing pandemic, the Government requests that the Court exclude time until the next conference date under the Speedy Trial Act, pursuant to 18 U.S.C. 3161(h)(7)(A). Such an exclusion is in the interests of justice for the reasons stated in the Chief Judge's March 27 and April 20 standing orders.

Respectfully submitted,

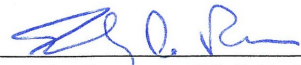
GEOFFREY S. BERMAN
United States Attorney

by: /s/
Edward Imperatore/Scott Hartman/Jared Lenow
Assistant United States Attorneys
(212) 637-2327/2527/1068

cc: Counsel of Record (via ECF)

The government's application is DENIED. The conference currently scheduled for June 4, 2020, at 11:00 AM will proceed as telephone conference. Counsel should call (877) 411-9748 and use access code 3029857#. (Members of the press and public may call the same number, but will not be permitted to speak during the conference.)

SO ORDERED.



Edgardo Ramos, U.S.D.J
Dated: 6/2/2020
New York, New York